

Reforming No-Fault Divorce

When Hollywood actor Charlie Sheen filed for divorce after a five-month marriage to Donna Peele, he declared, "I couldn't breathe, I had to come up for air." He went on to explain, on Entertainment Tonight, why he elected to choose divorce: "You buy a car, it breaks down, what are you gonna do?"

Few would argue that divorce is sometimes justified. But sadly, divorce has become all too common even outside of Hollywood. According to 1994 data, Florida now has the 8th highest divorce rate in the country. And the most frightening reality is that all too often marriages end because, like Charlie Sheen, people just want a change.

Part of the reason for the rise in these so-called "no-fault" divorces is an underlying social attitude that encourages "freedom" and entices people to drop responsibilities. But public policy has also played a role in the rising divorce rate, and a share of the blame must be placed at the feet of no-fault divorce laws. No-fault divorce has created a bizarre situation where it's now easier to leave a spouse of 20 years than it is to break a car lease.

Soaring divorce rates should be of concern to all Floridians because divorce not only causes suffering for those affected, but also damages our communities. Consider the effect on our kids who sometimes are left to wonder if perhaps the "fault" is somehow theirs. Compared to children of intact families, children of divorce are much more likely to drop out of school, engage in pre-marital sex, become pregnant outside of marriage, and commit crimes.

But children aren't the only victims of divorce. No-fault divorce also adds to the ranks of the one group most plagued by poverty-single mothers. The intact family is the best department of health, education and welfare we can ever hope for. But when it dissolves, the economic burdens can become intense, particularly on mothers.

Since 1971, Florida has been guided by a no-fault divorce law. However, many are now questioning the effects of such laws and are suggesting that we open a debate in this State to consider what can be done to make divorce less common. No one is suggesting that we force people to stay in abusive marriages. In some circumstances, a quick escape route is necessary for the protection of a spouse and children. But growing public opinion nationwide reveals that a discussion on divorce reform is in order. A survey by USA Today found that over half of all adults think divorce should be harder to obtain, and three-quarters of the children agree.

We didn't slide into a culture of divorce overnight, and there are no quick fixes to this problem. But there are several strategies we can consider as we discuss how divorce can be made less common.

First, couples contemplating marriage must understand the importance and reality of the marriage covenant and consequences of divorce.

~~Since three-quarters of all marriages are blessed by religious institutions, some reforms could be instituted by churches, synagogues, and other places of worship without any change in the law. For example, noted author Mike McManus has encouraged clergy in numerous cities across the United States to unite to create what he calls a "community marriage policy" which establishes minimum standards if a couple wants to be married in a church or synagogue in that city. Five years ago, churches in Peoria, Illinois, adopted such a policy which, among other things, requires that a couple complete a pre-marital counseling program before marriage. Since that time, the divorce rate has dropped by 20 percent.~~

Second, the law should require that a couple that has filed for divorce complete a court- approved counseling program or seminar and, if minor children are involved, a parenting class prior to the entry of final judgment to dissolve the marriage.

Many marriages can be strengthened through programs like Family Life Conferences and Marriage Encounter, or literally saved through programs like Retrouvaille, which has shown that over 80 percent of troubled marriages can be saved.

Finally, there is evidence that no-fault divorce laws are partly responsible for the high divorce rate in Florida.

Thus, reforming these laws may be in order. Where a couple with no minor children mutually agree to dissolve the bonds between them, the present no-fault system can operate fairly. But where married couples with minor children seek divorce, a closer look needs to be taken at the no-fault system to ensure that the interests of the child are protected. Some states have proposed that no-fault divorce be replaced by the traditional fault system when children are involved or when one party objects to the divorce. Others have suggested that a mandatory cooling-off period for counseling, reflection, and mediation be required in hopes that more marriages will survive. Whether these are the best solutions, few could answer. However, they do merit good, common-sense debate.

I do know that when it comes to a sensitive, emotional issue like a broken home and divorce, most of the solutions will have to be found in the heart. But our laws should not offer grown adults with children the opportunity to simply walk out on their commitments when they feel like it. Just because a marriage breaks down, needs repairs, or perhaps a tune-up, doesn't mean it should be ushered to the used car lot and replaced with a new model. It hurts too many people, too many children, and it dramatically affects the quality of life in our communities.

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